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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AUG 08 2001

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

RECEIVED  
OCT 21 2003

EDMC UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
ENERGY,

Defendant.

NO. CT-99-5076-EFS

ORDER GRANTING JOINT MOTION  
FOR ENTRY OF SECOND AMENDMENT  
TO CONSENT DECREE

BEFORE THE COURT is the parties' Joint Motion for Entry of Second Amendment to Consent Decree, (Ct. Rec. 19), in which the parties seek to amend the Consent Decree, (Ct. Rec. 9), that was filed in this matter on September 30, 1999, and amended by the First Amendment to Consent Decree, (Ct. Rec. 18), on November 30, 2000. Specifically, the parties seek to amend Attachment A to the Consent Decree which provides that

(n)o later than December 30, 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped from Tank C-103 together or separately, and will establish a deadline for initiating pumping of this tank. The parties will incorporate the initiation deadline into this schedule as provided in Section IV of the Decree.

//

ORDER GRANTING JOINT MOTION FOR ENTRY OF SECOND AMENDMENT TO CONSENT DECREE \* 1

1 (Ct. Rec. 9 at 20 ll. 6-9.) The Proposed Second Amendment to Consent  
2 Decree; (Ct. Rec. 20), states that on December 20, 2000, Defendant  
3 United States Department of Energy made the determinations regarding  
4 the organic layer and pumpable liquids. The proposed second amendment  
5 also establishes April 30, 2003, as the deadline for initiating the  
6 pumping of Tank C-103 and December 30, 2003, as the deadline to  
7 complete the pumping. The proposed second amendment was not subjected  
8 to public notice and comment because Plaintiff did not find it to be a  
9 significant modification to the Consent Decree. (Ct. Rec. 9 at 5 ¶  
10 VI.A.1.a.)

11 Pursuant to Local Rule 7.1(h)(6), the Court waives the time  
12 requirements of Local Rule 7.1(h)(1), and grants an immediate hearing  
13 on the parties' motion. The Court has reviewed the motion and the  
14 proposed second amendment to the consent decree. For cause shown, the  
15 Court grants the motion and separately enters the Second Amendment to  
16 Consent Decree. Accordingly,

17 IT IS HEREBY ORDERED that the parties' Joint Motion for Entry of  
18 Second Amendment to Consent Decree, (Ct. Rec. 19), is GRANTED.

19 IT IS SO ORDERED. The District Court Executive is directed to  
20 enter this Order and provide copies to counsel.

21 DATED this 8<sup>th</sup> day of August 2001.

22

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EDWARD F. SHEA  
United States District Judge

Q:\Civil\1999\CT-5076.ord.mtn expedite, amend decree 2.wpd

ORDER GRANTING JOINT MOTION FOR ENTRY OF SECOND AMENDMENT TO CONSENT  
DECREE \* 2

1 JOSEPH E. SHORIN, III, WSBA #19705  
2 Assistant Attorney General  
3 Attorney General of Washington  
4 Ecology Division  
5 P.O. Box 40117  
6 Olympia, WA 98504-0117  
7 (360) 586-6741

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U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AUG 08 2001

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

UNITED STATES  
DEPARTMENT OF ENERGY,

Defendant.

NO. CT-99-5076-EFS

SECOND AMENDMENT TO  
CONSENT DECREE

WHEREAS, on September 29, 1999, the Court entered a Consent Decree in which Plaintiff State of Washington, Department of Ecology ("State") and Defendant United States Department of Energy ("DOE") agreed to resolve potential litigation between the State and DOE regarding certain missed milestones as well as other remaining milestones in the Hanford Federal Facility Agreement and Consent Order ("HFFACO") (entered May 15, 1989) in the interim stabilization series (M-41) and to establish a judicially enforceable

SECOND AMENDMENT TO -  
CONSENT DECREE - 1

RECEIVED

JUL 27 2001

CLERK, U.S. DISTRICT COURT  
SPOKANE, WASHINGTON

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 586-6760

1 schedule for pumping liquid radioactive hazardous waste from single-shell  
2 tanks as identified in the schedule in Section IV-A of the Consent Decree;

3 WHEREAS, on September 29, 2000, the Court entered the First  
4 Amendment to the Consent Decree, adding certain additional provisions  
5 pertaining to awarding a contract for design and construction of a waste  
6 treatment and vitrification Complex;

7 WHEREAS, the schedule in Section IV-A of the Consent Decree is fully  
8 set forth in Attachment A to the Consent Decree, and requires that "[n]o later  
9 than December 30, 2000, DOE will determine whether the organic layer and  
10 pumpable liquids will be pumped from Tank C-103 together or separately, and  
11 will establish a deadline for initiating pumping of this tank"; and

12 WHEREAS, on December 20, 2000, DOE determined that the bulk of the  
13 separable organic layer in Tank C-103 will be transferred separately from the  
14 other pumpable liquids and established a deadline of April 30, 2003 for  
15 initiating pumping of Tank C-103,

16 NOW THEREFORE, it is hereby ordered, adjudged, and decreed as  
17 follows: The provisions of Attachment A to the Consent Decree pertaining to  
18 Tank C-103 are hereby deleted and replaced with the following:

Tank Designation	Pumping Initiated	Projected Pumping Completion Date
29. C-103	April 30, 2003	December 30, 2003

21  
22  
SECOND AMENDMENT TO  
CONSENT DECREE - 2

NEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 586-6760

This Second Amendment to Consent Decree shall be effective upon the date of its entry by the Court.

DATED this 8<sup>th</sup> day of August 2001.

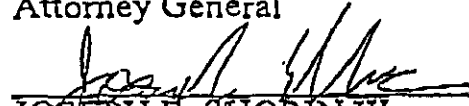
  
United States District Judge

FOR THE WASHINGTON STATE  
DEPARTMENT OF ECOLOGY

  
TOM FITZSIMMONS

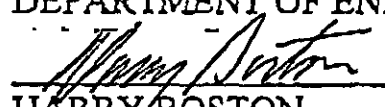
Director  
Washington Department of Ecology  
300 Desmond Drive  
Lacey, WA 98503

CHRISTINE O. GREGOIRE  
Attorney General

  
JOSEPH E. SHORIN III  
WSBA #19705  
Assistant Attorney General

Attorneys for Plaintiff  
Attorney General of Washington  
Ecology Division  
P.O. Box 40117  
Olympia, WA 98504-0117  
(360) 586-6741

FOR THE UNITED STATES  
DEPARTMENT OF ENERGY

  
HARRY BOSTON  
Acting Manager  
Office of River Protection

JOHN CRUDEN  
Acting Assistant Attorney General  
Environment and Natural Resources  
Division

  
MICHAEL J. ZEVENBERGEN  
WSBA #21292

Attorneys for Defendant  
United States Department of Justice  
Environmental Defense Section  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, N.E.  
Seattle, WA 98115-0070  
(206) 526-6607

SECOND AMENDMENT TO  
CONSENT DECREE - 3

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 586-6760



Christine O. Gregoire

# ATTORNEY GENERAL OF WASHINGTON

Ecology Division

2425 Bristol Court SW 2nd Floor • Olympia WA 98502

Mailing Address: PO Box 40117 • Olympia WA 98504-0117

(360) 586-6770

July 26, 2001

*Via Federal Express*

James R. Larsen, Clerk  
United States District Court  
Eastern District of Washington  
W 920 Riverside #840  
Spokane, WA 99201


Re: *Hanford Interim Stabilization Consent Decree—Tank C-103*  
USDC (ED) No. CT-99-5076-EFS

Dear Mr. Larsen:

Enclosed for filing please find the originals and two copies each of the Joint Notice of Hearing, Joint Motion for Entry of Second Amendment to Consent Decree, and Second Amendment to Consent Decree. Please process these as required and return one of the copies, file stamped, to me in the enclosed envelope.

Please feel free to call if you have questions. Thank you in advance for your assistance with this matter.

Very truly yours,

  
JOSEPH E. SHORIN, III  
Assistant Attorney General  
(360) 586-6751

JES:pah  
Encl.

cc: Michael J. Zevenbergen (w/Encl.)

1 JOSEPH E. SHORIN  
2 Assistant Attorney General  
3 Attorney General of Washington  
4 Ecology Division  
5 P.O. Box 40117  
6 Olympia, WA 98504-0117  
7 (360) 586-6741

The Honorable Edward F. Shea

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF WASHINGTON

13 STATE OF WASHINGTON,  
14 DEPARTMENT OF ECOLOGY,

15 Plaintiff,

16 v.

17 UNITED STATES DEPARTMENT  
18 OF ENERGY,

19 Defendant.

NO. CT-99-5076-EFS

JOINT NOTICE OF HEARING

20 TO: UNITED STATES DEPARTMENT OF ENERGY,  
21 by and through Michael J. Zevenbergen, Attorney for Defendant.

22 PLEASE TAKE NOTICE that a hearing regarding the Joint Motion for Second  
23 Amendment to Consent Decree in the above-captioned matter will be held by the assigned  
24 judge on:

25 August 31, 2001.

JOINT NOTICE OF HEARING. 1

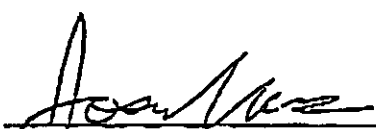
ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 438-7743

1 The hearing will take place without oral argument.

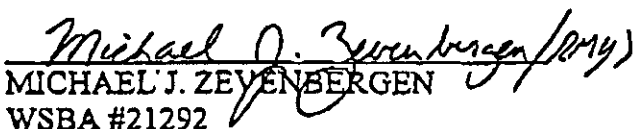
2 DATED this 25<sup>th</sup> day of July, 2001.

3 FOR THE WASHINGTON STATE  
4 DEPARTMENT OF ECOLOGY

5 CHRISTINE O. GREGOIRE  
6 Attorney General

7   
8 JOSEPH E. SHORIN, III  
9 WSBA #19705  
10 Assistant Attorney General  
11 Attorneys for Plaintiff  
12 State of Washington, Department of Ecology

13 FOR THE UNITED STATES  
14 DEPARTMENT OF ENERGY

15   
16 MICHAEL J. ZEVENBERGEN  
17 WSBA #21292  
18 Attorneys for Defendant  
19 United States Department of Energy  
20  
21  
22  
23  
24  
25



JOSEPH E. SHORIN, III, WSBA #19705  
Assistant Attorney General  
Attorney General of Washington  
Ecology Division  
P.O. Box 40117  
Olympia, WA 98504-0117  
(360) 586-6741

The Honorable Edward F Shea

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

UNITED STATES DEPARTMENT  
OF ENERGY,

Defendant.

NO. CT-99-5076-EFS

JOINT MOTION FOR ENTRY OF  
SECOND AMENDMENT TO  
CONSENT DECREE

Noted: August 31, 2001

On September 29, 1999, the Court entered a Consent Decree in the above-entitled matter, establishing a judicially enforceable schedule for pumping liquid radioactive hazardous waste from certain single-shell tanks located at Defendant's Hanford site. On September 29, 2000, the Court entered the First Amendment to the Consent Decree, adding certain additional provisions pertaining to awarding a contract for design and construction of a waste treatment and vitrification Complex. The schedule in Section IV-A of the Consent Decree is fully set forth in Attachment A to the Consent Decree and required that "[n]o later than December 30,

JOINT MOTION FOR ENTRY OF  
SECOND AMENDMENT TO  
CONSENT DECREE

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 438-7743

1 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped  
2 from Tank C-103 together or separately, and will establish a deadline for initiating pumping of  
3 this tank."

4  
5 On December 20, 2000, DOE made those determinations, including the establishment  
6 of a deadline of April 30, 2003, for initiating pumping of Tank C-103, as set forth in the  
7 attached proposed Second Amendment to the Consent Decree.

8 While the parties request that the Court approve the attached proposed Second  
9 Amendment, the parties note that DOE is exploring alternate technologies for separation of the  
10 organic layer in Tank C-103. DOE may in the future propose to the State an additional  
11 amendment to this provision of the Consent Decree, pursuant to the process set forth in Section  
12 VI-A of the Consent Decree, to extend the deadline to initiate pumping of Tank C-103. The  
13 State makes no representation as to whether such a proposal will be acceptable and expressly  
14 reserves its right pursuant to Section VI-A to oppose such a proposal. The parties hereby  
15 jointly move for entry of the attached Second Amendment to the Consent Decree in order to  
16 incorporate DOE's December 20, 2000, determinations into the existing schedule, which is set  
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JOINT MOTION FOR ENTRY OF  
SECOND AMENDMENT TO  
CONSENT DECREE

2


ATTORNEY GENERAL OF WASHINGTON.....  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 438-7743

1 forth in Attachment A to the Consent Decree. The Second Amendment to the Consent Decree  
2 has been signed by the parties and is fair, reasonable, and in the public interest.

3 DATED this 25<sup>th</sup> day of July, 2001.

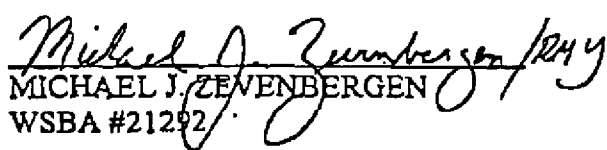
4 FOR THE WASHINGTON STATE DEPARTMENT OF ECOLOGY

5 CHRISTINE O. GREGOIRE  
6 Attorney General

7  
8   
9 JOSEPH E. SHORIN III  
10 WSBA #19705  
11 Assistant Attorney General

12 Attorneys for Plaintiff  
13 Attorney General of Washington  
14 Ecology Division  
15 P.O. Box 40117  
16 Olympia, WA 98504-0117  
17 (360) 586-6741

18 FOR THE UNITED STATES DEPARTMENT OF ENERGY

19   
20 MICHAEL J. ZEVENBERGEN  
21 WSBA #21292

22 Attorney for Defendant  
23 United States Department of Justice  
24 Environmental Defense Section  
25 c/o NOAA/Damage Assessment  
7600 Sand Point Way NE  
Seattle, WA 98115-0070  
(206) 526-6607

JOINT MOTION FOR ENTRY OF .....3 .....  
SECOND AMENDMENT TO  
CONSENT DECREE

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 436-7743

1 JOSEPH E. SHORIN, III, WSBA #19705  
2 Assistant Attorney General  
3 Attorney General of Washington  
4 Ecology Division  
5 P.O. Box 40117  
6 Olympia, WA 98504-0117  
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UNITED STATES DISTRICT COURT  
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STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

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NO. CT-99-5076-EFS

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WHEREAS, on September 29, 1999, the Court entered a Consent Decree in which Plaintiff State of Washington, Department of Ecology ("State") and Defendant United States Department of Energy ("DOE") agreed to resolve potential litigation between the State and DOE regarding certain missed milestones as well as other remaining milestones in the Hanford Federal Facility Agreement and Consent Order ("HFFACO") (entered May 15, 1989) in the interim stabilization series (M-41) and to establish a judicially enforceable

SECOND AMENDMENT TO  
CONSENT DECREE - 1

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 586-6760



1 This Second Amendment to Consent Decree shall be effective upon the  
2 date of its entry by the Court.

3 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

4  
5 United States District Judge

6 FOR THE WASHINGTON STATE  
7 DEPARTMENT OF ECOLOGY

8   
9 TOM FITZSIMMONS

10 Director  
11 Washington Department of Ecology  
12 300 Desmond Drive  
13 Lacey, WA 98503

14 CHRISTINE O. GREGOIRE  
15 Attorney General

16   
17 JOSEPH E. SHORIN III

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19 Assistant Attorney General

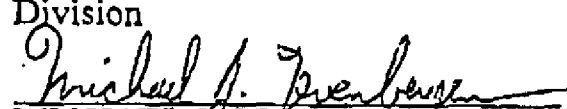
20 Attorneys for Plaintiff  
21 Attorney General of Washington  
22 Ecology Division  
P.O. Box 40117  
Olympia, WA 98504-0117  
(360) 586-6741

FOR THE UNITED STATES  
DEPARTMENT OF ENERGY

  
HARRY BOSTON

Acting Manager  
Office of River Protection

JOHN CRUDEN  
Acting Assistant Attorney General  
Environment and Natural Resources  
Division

  
MICHAEL J. ZEVENBERGEN

WSBA #21292  
Attorneys for Defendant  
United States Department of Justice  
Environmental Defense Section  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, N.E.  
Seattle, WA 98115-0070  
(206) 526-6607

SECOND AMENDMENT TO  
CONSENT DECREE - 3

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 586-6760